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EXAMINER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/882,094

Filing Date: June 15, 2001

Appellant(s): ZULPA ET AL.

Marisa J. Dubue

For Appellant

EXAMINER'S ANSWER

This is in response to the corrected appeal brief filed 10/20/05 appealing from the Office action mailed 12/23/04.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1,2,4,5,8,9.

Claims 11-20 withdrawn from consideration as not directed to the elected invention.

Claims 3,6,7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 10 has been canceled.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

a. The rejection of claims 3 and 6 under 35 USC 103 Haung et al. in view of Underwood and Liff et al.

b. The rejection of claim 7 under 35 USC 103 Haung et al. in view of Underwood and Liff et al. and further in view of Rand et al.

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1,2,4,5,8,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haung et al. in view of Underwood and Liff et al.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Haung et al. US 6151582,
Underwood US 663878, and
Liff et al. US 6581798

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 4, 5, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haung et al. in view of Underwood and Liff et al.

(10) Response to Argument

Haung et al., US 6151582, is directed to a supply chain management process (col. 1 lines 15-20) disclosing a highly sophisticated database management process which explicitly or by suggestion makes obvious the claims presently rejected in this case¹. As shown by the following element by element analysis, Haung taken in combination with Underwood US 6633878 and Liff et al. US 6581798 makes obvious the presently rejected claims.

a. Part data and extraction

The Haung et al. method utilizes a support thread 40 which amorously moves between a Database 12 and other operational modules within the supply chain and system architecture to effect synthesizing of data from may stages of the supply chain and system architecture. In opposition this observation, Appellants contend that “there is no mention of part data” in Haung et al. because the support thread 40 does not extract part data. The Examiner maintains that the process of Haung et al. would not function if the support thread 40 was incapable of extracting data. Appellants’ rely on the passage in col. 8 lines 31-35 of Haung et al to advance this allegation. But this passage falls short of the full description of Database 12 wherein a second storage area in the Database 12 involving part data is also disclosed. More specifically, a closer reading of Haung et al.

¹ Appellants similarly disclose the claimed method in a supply chain management process. See, Specification at page 2, lines 10 et. seq. Appellants’ brief does not allege Haung et al. as non-analogous art. Thus Han is to be treated as analogous art.

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in col. 8 beyond the lines cited by Appellants in their brief reveal contrarily that the database 12 in Haung et al. contains part data with respect of the data pertaining to the equipment supply chain as described in col. 8 lines 38 et seq. of Haung et al. Here it is disclosed that the database 12 insofar as the repair supply chain is concerned, clearly includes part data, citing inter alia, to equipment, repair resources, age of equipment, etc.:

for the equipment repair supply chain see FIG. 6) comprises structural information (information related to relatively static information such as equipment, repair resources, supply chain network, etc.), and process information (dynamic information related to usage, requirements, repair plan, etc.). Again, the structural elements are flexibly collected into different groups to allow users to analyze data at various resolutions. For example, equipment of the same age can be grouped together to analyze the effect of age on repair requirements. FIG. 6 graphically represents the structural data tables for the equipment repair supply chain.

If not enough, Haung et al. then further goes on to present an illustrated example of the database structure containing part or equipment information as shown in Table 2 below. Here in this table, Haung et al discloses part information in the form of a part identifier (Product ID) data and other part information such as, date created data, as shown below.

TABLE 2

Header table that provides the series information
and the various identifiers

Organization HeaderID	Customer Resolution	CustomerID	Product Resolution	ProductID	Time Resolution	CalendarID	Date Created
1	C	BESTB	P	19PR14C	M	1	1/1/96
2	C	BESTB	P	19PS52C	M	1	1/1/96
3	C	BESTB	P	6P4830W	M	1	1/1/96
4	C	SEARS	P	584528	M	1	1/1/96
5	C	SEARS	P	6P4830W	M	1	1/1/96
6	C	SEARS	P	6P4840W	M	1	1/1/96
7	C	SEARS	P	6P4850W	M	1	1/1/96

Thus, the Board should have no uncertainty in accepting the existence of part data in

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Haung et al.

Appellants next argue Haung et al. do not teach or suggest extracting part data. First, the step of extracting is a very broad term, *Webster's Tenth Collegiate Dictionary* defines "extract" as to draw from (as by research). The Examiner cited to the support thread 40 to evidence the extracting data feature. In so doing, the citing to the thread 40 was meant to show the overall scheme of the Haung et al. method clearly does and must extract part data from a storage device. More specifically, col. 5, line 53 of Haung et al. discloses that the thread 40 is tied to the DSS database 12. The DSS Database 12 is disclosed to include part data as established above. Col. 6 lines 34 and 35 clearly disclose:

[t]he DSS Database 12 can be interfaced to the Supply Chain Information Systems 15 to retrieve the required data and provide updated data, as needed.

Thus, because the database 12 can provide updated data to the Supply Chain Information System 15, such updated data is read as being drawn from the data base 12 to effect the update and hence extracted. Thus, the Board must understand and appreciate that Haung et al. discloses a method which by its very structure must extract data relating to part as evidenced by the above portions of the Haung et al. disclosure.

b. Demand data, purchase data, and creation data

Next, Appellants argue "Haung is devoid of teaching activity data including demand data, purchase data, and creation data that date a part number". However, to the contrary, Haung et al. clearly disclose demand data as part of the demand management process 81.

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Appellants attack the demand data element 81 alleging a different function in that the demand data in Haung et al. “relates to a process by which the customers’ requirement are characterized with the specification of prevailing uncertainty”. But, the claim language used by Appellant does nothing more than to call for simply “demand data” and Haung et al. in col. 12 lines 51 et seq. discloses the existence of demand data. In the same way, Appellants contend Haung et al. fail to disclose “purchase data”. Again however, Haung et al. in col. 13 clearly discloses purchase data as part of the PSI planning process 82 in the form of “market trend forecasts by product” col. 13 lines 27-28, and discloses “feasible sales” col. 13 lines 9 and 10 all of which are read as “purchase data”. Appellant apparently do not deem data relating to “feasibility of sales” or market trend forecast to be “purchase data”, but the examiner does. This is so especially in light that sales and market trends all involves the exchange of money or its equivalent for an object, which is also the definition of purchase. See, *Webster’s Tenth Collegiate Dictionary*. The recitation by Appellants of merely “purchase data” leaves open to the examiner a myriad of reasonable interpretations which he entitled to take in the reading of the claims.

Similarly, Appellants mistakenly contend Haung et al fail to disclose “creation data”. In so doing Appellants only assert the Examiner has interpreted this term “in a vacuum...”. But the Examiner has responded in kind to the broad recitation of “creation data” leaving the trailing terms of this recitation describing “a date a part number is established...” to be answered by the secondary references. Thus, Haung et al is merely relied on for its teaching of having “creation data” in the form of “ time frame for...new product data”.

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(Final Office Action states “the data created for the history of the replaced products, col. 36, line 55”). This data is described as relating to a time frame to use a use a new product’s data when it accumulates enough data of its own and thus is tied to the creation of the product. Even still, TABLE 2 shown below illustrates clearly shows a DATE CREATED data as part of the database 12:

TABLE 2

Header table that provides the series information
and the various identifiers

Orientation HeaderID	Customer Resolution	Customer CustomerID	Product Resolution	Product ProductID	Time Resolution	Calendar CalendarID	Date Created
1	C	BESTB	P	19FK14C	M	1	1/1/96
2	C	BESTB	P	19PS52C	M	1	1/1/96
3	C	BESTB	P	6P4830W	M	1	1/1/96
4	C	SEARS	P	584528	M	1	1/1/96
5	C	SEARS	P	6P4830W	M	1	1/1/96
6	C	SEARS	P	6P4840W	M	1	1/1/96
7	C	SEARS	P	6P4850W	M	1	1/1/96

Thus, there can be no question as to the existence of creation data as part of the Haung et al method.

b(1): The date a part number for the part is added

Haung et al. disclose creation data, see, Table 2 “DATE CREATED”. However, this data does not explicitly reference the date the part number for the part was added to the database. But, Liff et al.² does provide a teaching for marking in time when a drug bar code number is time stamped into the system. The examiner states:

In col. 13 lines 33-43 it is disclosed that beginning at the pre-packager 102, all transactions are recorded in real time to the main computer 100. Thus, the data banking step of bar coding the drug package at the device 102 is read as adding a part number because the bar code number is known to the data base 100 as a part number and is done in real time giving it a time stamp as well. It would be obvious to modify the system/method of Haung et al. to include a date stamp of the day the parts enter the system as taught by Liff et al. because the motivation would be the input of data critical to knowing the age of the part on the

² Liff et al. is also used to evidence Official Notice of active/inactive status codes.

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shelf and to have a quick determination of whether the part has become outdated.

In reply, Appellants only challenge to this combination is to nonanalogous art, but the examiner believes it to be analogous because, inter alia, Liff et al. is similarly drawn to inventory control of goods, e.g. medicines.

c. Evaluating part and activity data

Even though the Final Office action states that Haung et al. fail to explicitly disclose the feature of associating the part and activity data, it is clear from Haung et al. that part data, demand data, purchase data, and creation data each are evaluated such that unique data is derived through analysis of synthesized data. Synthesized data is disclosed as being part of Database 12. See col. 6 line 27. Thus, at the very least, Haung et al. provides the teaching for synthesizing part data, demand data, purchase data, and creation data to create new data. Furthermore, Haung et al disclose col. 11 lines 6-19, providing:

The present invention preferably provides core reports that support business decision processes by characterizing the link between the various data elements and processes. They synthesize the data and information used in the decision making processes. Associated with each key business process, we will demonstrate the data flow relationships that are used to construct the various forms and reports. Some of the preferred forms and reports relevant to the DSS 10 are: Sales Plan; Customer-Demand History; Production-Sales-Inventory Plan; Master Production Plan; Production Capacity Plan; Replenishment Schedule; Customer-DC Assignment; and Supply-DC Assignment.

The examiner believes this to answer the evaluating step of claim 1, but in an abundance of caution cites also to the secondary reference to Underwood for explicit mention of the evaluating feature.³

d. Associating a status code with said part data based on the results of said evaluating,

³ See *Part d* below for Underwood evaluation data analysis.

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the status code assigned being one of active status or inactive status

Assigning codes with part data is clearly disclosed in Haung et al. as shown for example, as shown in TABLE 1 below. As discussed above, the data set forth in TABLE 1 below is part of the Database 12 and this database is disclosed as including synthesized or evaluated data such as shown in this table.

TABLE 1

A single spreadsheet table with redundancy (not in round form)

Orientation Header ID	Customer Resolution	Customer ID	Product Resolution	Product ID	Time Resolution	Calendar ID	Date Created	Time Period	Quantity
1	C	BESTB	P	19PR14C	M	1	1/1/96	8/1/96	10
2	C	BESTB	P	19PS51C	M	1	1/1/96	6/1/96	20
2	C	BESTB	P	19PS52C	M	1	1/1/96	7/1/96	30
2	C	BESTB	P	19PS52C	M	1	1/1/96	8/1/96	75
2	C	BESTB	P	19PS52C	M	1	1/1/96	9/1/96	50
3	C	BESTB	P	6P4830W	M	1	1/1/96	6/1/96	12
3	C	BESTB	P	6P4830W	M	1	1/1/96	7/1/96	40
3	C	BESTB	P	6P4830W	M	1	1/1/96	8/1/96	57
4	C	SEARS	P	554528	M	1	1/1/96	9/1/96	50
4	C	SEARS	P	554528	M	1	1/1/96	10/1/96	2
4	C	SEARS	P	554528	M	1	1/1/96	7/1/96	3
5	C	SEARS	P	6P4830W	M	1	1/1/96	2/1/96	2
6	C	SEARS	P	6P4830W	M	1	1/1/96	5/1/96	74
7	C	SEARS	P	6P4830W	M	1	1/1/96	3/1/96	3
7	C	SEARS	P	6P4830W	M	1	1/1/96	6/1/96	565
7	C	SEARS	P	6P4830W	M	1	1/1/96	4/1/96	500

The Table 1 employs at least five codes illustrated above as: Header ID, Customer Resolution, Product Resolution, Time Resolution, Calendar ID, but none appear to show an active/inactive status code. The examiner looked to database patents, such as that of Underwood, to illustrate the obviousness of giving a code an on/off or active inactive definition and to shown that data in databases are evaluated.

Appellants however argue the codes in Underwood⁴ do not relate in any sense to the “assignment of an inactive or active status code”. Appellants further assert that these

⁴ Appellants also assert that Underwood is nonanalogous art because it is directed to initializing a database and not to a supply chain. However, it is the examiner's view that the process of claim 1 is materially comprised of database manipulation and synthesizing, and thus is undoubtedly analogous to Underwood's database structure.

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codes are used to map between data sets citing to col. 19 lines 24 et seq. (see Appeal brief at p 5 line 17). But a detailed reading of this section reveals no mention of using the codes to map, but rather the use of the business object to effect this function. (See, col. 19 line 41). Underwood involves functional interrelationships between database items and uses codes.⁵ But, if the Board seeks further evidence of Underwood teaching status code labeling, it is additionally directed to the passage in col. in col. 257 of Underwood relating to Figs. 104 and 107 wherein a status code (new or not new) is assigned to each SIR. The “new” or “not new” status codes assigned to the items in Underwood may be read, respectively, as active or inactive, because an item coded as “new” will be acted on actively as a new matter, and one that is not, will be inactively acted on as a new matter. The motivation for combining the code assigning feature of “active” vs. “inactive” with the method of Haung et al is found in Haung et al. its ability to service plural supply chains and the need to have a code assigned to parts, particularly with respect to repair parts, to tell what anyone involved in the chain the status of the involved part.

The Examiner notes to the Board that in Appellant’s Response dated 10/12/04, Appellants traversed the Examiner’s taking of Official Notice of the active/inactive status the Office Action dated 7/9/04. In reply to this, the Examiner in the Final Office Action added Liff et al. to the combination stating:

In reply to Applicant’s request for documentary evidence supporting alleged official notice of maintaining a status of “active” or “inactive” for database information, Applicant is directed again to Liff et al. (cited in this office action to meet the newly added limitation of “including a date a part number for the part is added to the data storage device”), which in col. 19, lines 18,19 disclose making drugs active or inactive within the database. See also, e.g. Rand et al col. 5 line 63.

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Accordingly, the official notice traversal was answered with the addition of Liff et al. to the combination to illustrate to old use of active or inactive statuses of items within a database. Appellants only challenge to this evidence was to maintain it as nonanalogous art, but the Examiner believes it to be analogous because, inter alia, it is similarly drawn to inventory control of goods, e.g. medicines. Thus, if the Board is not satisfied that Haung et al. and /or Underwood advance the interpretation set forth above regarding the status codes features, it can rely alternatively upon the Official Notice evidenced by Liff et al. as set forth above.

e. Storing said part data and said status codes in said data storage location wherein said facilitating said database management process is accomplished by a parts database management software application

Haung et al disclose a software application 40 which manages the database 12 in the form of the support thread discussed above at *Part a*. While Haung et al. fail to explicitly disclose using this application to store the active/ inactive status of the parts shown, e.g. in TABLE 1 above. The motivation is again apparent from Haung et al. in its ability to service plural supply chains and the need to have a code assigned to parts particularly with respect to repair parts, so as to tell anyone involved in the chain the status of the involved part.

II. Claim 2:

Appellants have not made any challenge of the Official Notice Taken in claim 2 as

⁵ The mapping is read as teaching evaluating database data.

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required under MPEP 2144.03.⁶ All that Appellants argue or have ever argued regarding this claim and the official notice taken is that “the Appellants are not claiming the act of referring to parts by part name, number or description... but to clarify the nature of part data... “. (See, Brief page 6). Notwithstanding, the notice taken covers the clarifying nature of the use of part data having part name, number or description. The failure of Appellant to traverse the Official Notice under 1.111(b) deems the content thereof to be admitted prior art.

III Claims 3 and 6.

The rejection of claims 3 and 6 has been withdrawn.

IV. Claim 7.

The rejection of claim 7 has been withdrawn.

V. Claim 8:

Claim 8 recites inter alia, determining whether the part number is owned by a group of the enterprise recited in the preamble of claim 1. It is the examiner’s position that the vendors in the supply chain in Haung are each part of the enterprise as established by strategic agreements:

⁶ To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”).

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VMR involves formulating the contractual agreements between the enterprise and the retailers as well as determining the operating parameters such as shipment quantities and replenishment frequencies. We have identified the user requirements discussed below for decision support for this process. Develop a strategic analysis tool to determine mutually beneficial VMR contracts based on financial and logistics factors. Develop the replenishment plan based on factors such as sell-through and inventory information provided by the retailer, promotion activities, product availability and transportation cost trade-offs. (col. 14 lines 5 et seq.)

The VMR vendors are said to have inventory information which is read as including part numbers (see official notice, now admitted prior art of claim 2) and which vendors are by agreement part of the supply chain enterprise as a group. The ownership aspect of this claim is clearly found in TABLE 3 above, with the CUSTOMER ID data, e.g. SEARS, BESTBUY, being identified alongside the involved part. Appellants maintain that a vendor is external to the enterprise whereas a group is internal to it. However, Haung et al disclose contractual arrangements which, by definition, allow parties to become internally consolidated as a group.

Regarding the wherein clause of claim 8, this language is read as a mere effect without any intermediate steps causing the result. However, should the Board be willing to give this language weight, then it can find in Haung et al. the feature of a determining step related to whether a supply chain vendor is under contractual obligation to repair a part (col. 14 lines 9,10) causing “components to be ordered from the sources of supply by the repair shops (Col.14 lines 35,36). In other words, since the needed repair part is ordered by the vendor through its supplier, the part ID will be appurtenant to that vendor’s supplier thereby answering the wherein clause at issue.

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VI. Claim 9:

Appellants argue that supply chain participants are not synonymous with a council. However, broadest reasonable meaning, not synonymous meaning, is the legal standard to be applied. *See, In re Cortright*, 165 F.3d 1353, 1358, 49 U.S.P.Q.2D (BNA) 1464, 1467 (Fed. Cir. 1999) *citing to, In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997) (" [T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art"). Thus, since the supply chain participants are an assembly of parties governing the flow of products through the system, they are read as a council which, through the software thread 40, may each have access to data such as, the part number and codes such as shown in TABLES I, II, III.

Conclusion:

The claims presently rejected by the Examiner should be affirmed by the Board because of the above reasons and the over breadth of claim scope.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph A. Fischetti". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joseph A. Fischetti
Primary Examiner Business Methods

Conferees:

Alex Kalinowski 
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